

Department of Veterans Affairs

§ 21.3303

Rehabilitation Panel. The panel will consider whether—

(1) There exists a handicap which will interfere with pursuit of a program of education;

(2) It is in the best interests of an eligible child to begin special restorative training after his or her 14th birthday;

(3) The period of special restorative training materially will improve the eligible child's ability to:

(i) Pursue a program of education,

(ii) Pursue a program of specialized vocational training,

(iii) Obtain continuing employment in a sheltered workshop, or

(iv) Adjust in his or her family or community;

(Authority: 38 U.S.C. 3541(a))

(4) The special restorative training may be pursued concurrently with a program of education; and

(5) Training will affect adversely the child's mental or physical condition;

(6) The Department of Veterans Affairs:

(i) Has considered assistance available under provisions of State-Federal programs for education of handicapped children, and

(ii) Has determined that it is in the child's interest to receive benefits under Chapter 35,

(Authority: 38 U.S.C. 3541(a))

(b) *Report.* The Vocational Rehabilitation Panel will prepare a written report of its findings and recommendations as to the need for assistance and the types of assistance which should be provided. The report will be sent to the counseling psychologist.

(c) *Development and implementation.* Following consultation with the panel or receipt of the panel's report, or both, the counseling psychologist will determine the need and feasibility of special restorative training. If an affirmative finding is made, an individualized, written plan comparable to that developed in cases of extended evaluation under 38 U.S.C. Chapter 31 will be prepared. The plan will be developed jointly with the eligible child and parent or guardian.

(Authority: 38 U.S.C. 3541(a))

(d) *Notification of disallowance.* When a parent or guardian has requested spe-

cial restorative training on behalf of an eligible child, and the counseling psychologist finds that this training is not needed or will not materially improve the child's condition, the Department of Veterans Affairs will inform the parent or guardian in writing of the finding. The Department of Veterans Affairs will also inform the parent or guardian of his or her appeal rights.

(e) *Reentrance after interruption.* The case of an eligible child shall be referred to the panel for consideration of whether the eligible child may be permitted reentrance into special restorative training following interruption. The panel will recommend approval to the counseling psychologist if there is a reasonable expectation that the purpose of special restorative training will be accomplished. See § 21.3306.

(Authority: 38 U.S.C. 3540)

[48 FR 37973, Aug. 22, 1983, as amended at 49 FR 42725, Oct. 24, 1984]

§ 21.3302 Agreements.

(a) *Agreements to provide training.* The Department of Veterans Affairs may make agreements with public or private educational institutions or others to provide suitable and necessary special restorative training for an eligible child.

(b) *Tuition charge.* When a customary tuition charge is not applicable, the agreement will include the fair and reasonable amounts which may be charged the parent or guardian for the training provided an eligible child.

(c) *Content of agreement.* Each agreement will include the same type of information required for special restorative training for disabled veterans under 38 U.S.C. Chapter 31, including the requirement that the educational institutions, or others with whom arrangements have been made, report to the Department of Veterans Affairs promptly the eligible child's enrollment in, interruption or termination of the course of special restorative training.

(Authority: 38 U.S.C. 3543)

[48 FR 37973, Aug. 22, 1983]

§ 21.3303 Extent of training.

(a) *Length of special restorative training.* Ordinarily, special restorative

training may not exceed 12 months. When the counseling psychologist, after consulting with the Vocational Rehabilitation Panel, determines that more than 12 months of training is necessary, he or she will refer the program to the Director, Vocational Rehabilitation and Counseling Service for prior approval. Where the plan for a program of special restorative training itself (not in combination with the program of education) will require more than 45 months (or its equivalent in accelerated payments) the plan will be included in the recommendation to the Director, Vocational Rehabilitation and Education Service for approval.

(Authority: 38 U.S.C. 3543(b))

(b) *Age limitation.* No eligible child may receive special restorative training after reaching age 31.

(Authority: 38 U.S.C. 3512)

(c) *Full-time training.* An eligible child will pursue special restorative training on a full-time basis.

(1) Full-time training requires training for:

(i) That amount of time per week which commonly is required for a full-time course at the educational institution when, based on medical findings, the Department of Veterans Affairs determines that the eligible child's physical or mental condition permits training for that amount of time, or

(ii) The maximum time per week permitted by the child's disability, as determined by the Department of Veterans Affairs, based on medical findings, if the disability precludes the weekly training time stated in paragraph (c)(1)(i) of this section.

(2) If the hours per week that can reasonably be devoted to restorative training will not of themselves equal the time required by paragraph (c)(1) of this section, the course will be supplemented with subject matter which will contribute toward the objective of the program of education.

(Authority: 38 U.S.C. 3542(c))

[48 FR 37973, Aug. 22, 1983, as amended at 49 FR 42726, Oct. 24, 1984]

§ 21.3304 Assistance during training.

(a) *General.* A vocational rehabilitation specialist will provide the profes-

sional and technical assistance needed by the eligible child in pursuing special restorative training. The assistance will be timely, sustained and personal.

(b) *Adjustments in the training situation.* The vocational rehabilitation specialist must be continually aware of the eligible child's progress. At frequent intervals he or she will determine whether the eligible child is progressing satisfactorily. When the vocational rehabilitation specialist determines that adjustments are needed in the course or in the training situation, he or she will act immediately to bring about the adjustments in accordance with the following:

(1) When the eligible child or his or her instructor indicates dissatisfaction with elements of the program, the vocational rehabilitation specialist, through personal discussion with the eligible child or his or her instructor or both, will, if possible, correct the difficulty through such means as making minor adjustments in the course or by persuading the eligible child to give more attention to performance.

(2) When major difficulties cannot be corrected, the vocational rehabilitation specialist will prepare a report of pertinent facts and recommendations for action by the counseling psychologist in consultation with the Vocational Rehabilitation Panel.

(3) Action will be taken to terminate the eligible child's course at the proper time so that his or her entitlement may be conserved when the vocational rehabilitation specialist determines that:

(i) The eligible child is progressing much faster than anticipated, and

(ii) The eligible child's course may be terminated with satisfactory results before the time originally planned.

(Authority: 38 U.S.C. 3541)

[48 FR 37973, Aug. 22, 1983, as amended at 49 FR 42726, Oct. 24, 1984]

§ 21.3305 "Interrupted" status.

(a) *Special restorative training should be uninterrupted.* An eligible child once entered into special restorative training should pursue his or her course to completion without interruption. Wherever possible, continuous training shall be provided for each eligible